

#### § 373.4

#### 40 CFR Ch. I (7–1–07 Edition)

contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or “Superfund”) 42 U.S.C. section 9620(h).”

#### § 373.4 Definitions.

For the purposes of implementing this regulation, the following definitions apply:

(a) *Hazardous substances* means that group of substances defined as hazardous under CERCLA 101(14), and that appear at 40 CFR 302.4.

(b) *Storage* means the holding of hazardous substances for a temporary period, at the end of which the hazardous substance is either used, neutralized, disposed of, or stored elsewhere.

(c) *Release* is defined as specified by CERCLA 101(22).

(d) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

### PART 374—PRIOR NOTICE OF CITIZEN SUITS

Sec.

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AUTHORITY: 42 U.S.C. 9659.

SOURCE: 57 FR 55040, Nov. 23, 1992, unless otherwise noted.

#### § 374.1 Purpose.

Section 310 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), authorizes civil actions by any person to enforce the Act. These civil actions may be brought against any person (including the United States, and any other governmental instrumentality or agency, to the extent permitted by the

Eleventh Amendment to the Constitution), that is alleged to become effective pursuant to the Act (including any provision of an agreement under section 120 of the Act, relating to Federal facilities); and against the President or any other officer of the United States (including the Administrator of the Environmental Protection Agency and the Administrator of the Agency for Toxic Substances and Disease Registry) where there is alleged a failure to perform any act or duty under this Act, which is not discretionary with the President or such other officer, including an act or duty under section 120 of the Act (relating to Federal facilities), but not including any act or duty under section 311 of the Act (relating to research, development, and demonstration). These civil actions under section 310 of the Act are to be filed in accordance with the rules of the district court in which the action is instituted. The purpose of this part is to prescribe procedures governing the notice requirements of subsections (d) and (e) of section 310 of the Act as a prerequisite to the commencement of such actions.

#### § 374.2 Service of notice.

(a) *Violation of standard, regulation, condition, requirement, or order.* Notice of intent to file suit under subsection 310(a)(1) of the Act shall be served by personal service upon, or by certified mail, return receipt requested, addressed to the alleged violator of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act in the following manner:

(1) If the alleged violator is a private individual or corporation, notice shall be served by personal service upon, or by certified mail, return receipt requested, addressed to the person alleged to be in violation. If the alleged violator is a corporation, a copy of the notice shall also be served by personal service upon or by certified mail, return receipt requested, addressed to the registered agent, if any, of that corporation in the State in which the violation is alleged to have occurred. A copy of the notice shall be served by personal service upon or by certified